

**REMARKS**

**Information Disclosure Statement**

Please note that an Information Disclosure Statement was filed in the above-referenced application on September 25, 2001, and that two Supplemental Information Disclosure Statements were filed in the above-referenced application on August 22, 2002, and September 18, 2002. No copies of the Form PTO-1449s that accompanied these Information Disclosure Statements have yet been returned to the undersigned attorney. It is respectfully requested that the information cited on the PTO-1449s be considered and made of record in the above-referenced application and that initialed copies of the PTO-1449s indicating the same be returned to the undersigned attorney.

**Preliminary Amendment**

Also, please note that a Preliminary Amendment was filed in the above-referenced application on October 29, 2001, but that filing of the Preliminary Amendment has not yet been acknowledged by the Office. If, for some reason, the Preliminary Amendment has not yet been entered into the Office file, the undersigned attorney will be happy to have a true copy thereof hand-delivered to the Examiner.

**Election of Species Requirement**

Claims 1-97 are currently pending in the above-referenced application and are subject to an election of species requirement.

The communication of December 24, 2002, indicates that one species is to be elected from each of Groups A and B.

Group A includes two species. As indicated by the Office, the invention of Species I of Group A is directed to the measurement of two substances, while the invention of Species II of Group A is drawn to the measurement of one substance and respiratory flow.

Group B includes eight species.

Species I of Group B is shown in FIG. 1 and includes an airway adapter with a pair of oppositely positioned windows through which infrared sensing techniques may be conducted, another window through which luminescence quenching sensing techniques may be conducted, and a pair of conduits for use in determining respiratory flow.

Species II of Group B, which is shown in FIG. 7 is drawn to an airway adapter which includes opposite windows for facilitating infrared sensing techniques, as well as a window through which luminescence quenching sensing techniques are facilitated, as well as a transducer which is configured to be assembled with the airway adapter.

Species III of Group B, which is shown in FIG. 8, includes airway adapters that include single windows through which infrared sensing techniques and luminescence quenching techniques are employed. In addition, Species III includes a transducer that complements the airway adapter.

Species IV of Group B, which is shown in FIG. 9, is directed to an airway adapter that includes a pair of windows positioned on opposite sides of a bore, with luminescable material covering a portion of one of the windows, such as a half thereof. One or both of the windows may be used to facilitate both infrared sensing techniques and luminescence quenching techniques. Species IV also includes a transducer which is configured complementarily to the airway adapter.

Species V of Group B, which is shown in FIG. 11, is also directed to an airway adapter that includes a pair of windows that are positioned on opposite sides of a bore, but with luminescable material in an annular configuration being positioned adjacent to the outer periphery of one of the windows. As with Species IV, one or both of the windows may be used to facilitate both infrared sensing techniques and luminescence quenching techniques. Also, Species V includes a transducer that is configured to complement the airway adapter.

Species VI of Group B, which is shown in FIG. 13, includes an airway adapter that facilitates infrared sensing, luminescence sensing, and flow sensing. The airway adapter of Species VI includes a single pair of opposed windows that are configured much like the windows of the airway adapter of Species V.

Species VII of Group B, which is shown in FIG. 14, includes a single window through which both infrared sensing techniques and luminescence quenching techniques are effected. Luminescable material is positioned adjacent to the outer periphery of the window in an annular configuration. Species VII also includes a transducer which is configured complementarily to the airway adapter.

Species VIII of Group B is illustrated in FIG. 19 and includes an airway adapter with a gas sampling area which is located between conduits through which respiratory samples are obtained for sensing respiratory flow.

An election is hereby made, without traverse, to pursue claims that are drawn to the inventions of Species I of Group A, which is directed to measuring two substances, and to Species I of Group B, which includes the structure shown in FIG. 1.

Species I of Group A is drawn to the measurement of two substances and Species I of Group B is drawn to a multi-function airway adapter which includes an infrared sensing element, a luminescence quenching sensing element, and a flow sensing element. Accordingly, it is respectfully submitted that any claims that recite a structure that senses two substances and that includes one or more of an infrared sensing element, a luminescence quenching sensing element, and a flow sensing element reads on the elected species. In particular, it is respectfully submitted that each of claims 1-30, 42-49 and 75-88 reads on the invention of Species 1.

It is also respectfully submitted that each of independent claim 22 is generic to both Species 1 of Group A and to Species 1 of Group B.

Independent claim 22 is also currently generic all of the species of Group B.

Serial No.: 09/841,451

An early action on the merits of claims 1-30, 42-49, and 75-88 is respectfully solicited.

Respectfully submitted,



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Date: January 22, 2003

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